



rejected. It suggested that the Plaintiff refile his claim with the Department of Labor's Cleveland office. Apparently, in an effort to ensure that the Plaintiff's claim was properly filed, the parties agreed that the Plaintiff would submit his claim to the Government, which would forward it to the appropriate Department of Labor official. It is Plaintiff's counsel's subsequent delay in submitting the claim forms to the Government which prompted the Government to file the motion now before the court.

There is no dispute that Plaintiff's counsel has in recent months been less than diligent in his efforts to submit a FECA claim with the Department of Labor on his client's behalf. However, it would be disingenuous to attribute all of the delay in filing the FECA claim to his lack of perseverance. The fact of the matter is that this litigation has been protracted in large part by the inaction of and lack of communication from the Department of Labor. The court is not inclined overlook the Department of Labor's neglect while simultaneously punish Plaintiff's counsel for his lack of diligence, particularly in light of the fact that the Government recently received FECA claim forms from Plaintiff's counsel.

The Government's Motion to Lift Stay (Docket No. 31) is therefore **DENIED**. If it has not already done so, the Government is to forward the Plaintiff's claim forms to the appropriate officials at the Department of Labor. The Government shall also file a copy of any transmittal letter forwarding the Plaintiff's claim forms to the Department of Labor. The Plaintiff is to file a copy of these claim forms with the court. Additionally, he shall continue to submit periodic status reports as previously ordered by the court.

**IT IS SO ORDERED.**

Dated this 5th day of November, 2009.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr.  
United States Magistrate Judge